

India's Grand Advocates

A Legal Elite Flourishing in the Era of Globalization*

Marc Galanter[†]

Nick Robinson[‡]

This article examines a flourishing group of elite litigators, that we call 'Grand Advocates', who practice before the Indian Supreme Court and some of India's High Courts. In a court system marked by overwhelmed judges with little assistance, multiplicity and blurriness of precedent, and by the centrality of oral presentation, the skills and reputational capital of these lawyers enables them to play a central, lucrative, and unique role. Indeed, it is often the Grand Advocates, as much as the judges, who lead and propel forward the Indian judicial system. We argue that our exploration of Grand Advocates provides a counter-example and an analytical framework to understand why the homogenizing forces of globalization may not necessarily lead to a convergence in the structure of the legal professions in different countries.

Introduction

An observer of the legal scene in contemporary India quickly becomes aware of the presence of a stratum of legal superstars — advocates based at the Supreme Court

*An earlier version of this paper was presented at the conference on "The Indian Legal Profession in the Age of Globalization," Harvard Law School, Cambridge, MA, April 13–14, 2012 and at the Law and Society Association Annual Conference in Boston, MA, May 30 to June 2, 2013. The authors would like to thank Anu Agnihotri, Swethaa Ballakrishnen, Nikhil Chandra, Abhinav Chandrachud, Rajeev Dhavan, John Flood, Menaka Guruswamy, Arundhati Katju, Vikram Khanna, Jayanth Krishnan, Pavan Mamidi, James Nedumpura, Karuna Nundy, Avi Singh, Rahul Singh, Tushna Thapliyal, Dave Trubek, David Wilkins, and not least the many anonymous advocates who generously gave their time and insight.

[†]John & Rylla Bosshard Professor Emeritus of Law and South Asian Studies, University of Wisconsin–Madison.

[‡]Research Fellow, Program on the Legal Profession, Harvard Law School. Visiting Fellow, Centre for Policy Research.

and some of the High Courts who are very much in demand and widely known. These ‘Grand Advocates,’ as we call them, are the most visible and renowned legal professionals in present day India. Stories abound of their strategic acumen, their preternatural articulateness (speaking for hours and days without notes), their esoteric quirks and outsized incomes, and their contributions to the ‘rule of law.’ This elite handful of lawyers is involved in almost every high-profile case in what is one of the most active and powerful higher judiciaries in the world (Rajamani & Sengupta: 2010; Robinson: 2009). Their clients include India’s new uber-rich, major multinational corporations, and the country’s political class.

We argue that Grand Advocates (GAs) have not only survived, but flourished in the age of globalization — benefiting from, while resisting absorption by — the rising law firm sector. A series of structural features of litigation and the judiciary in India have played a dominating role in perpetuating this unique set of lawyers, and the culture they inhabit. Litigation in India tends to be less about money (as there are fewer deep pockets, judges rarely grant large monetary compensation, and it is difficult to collect an award), and more about control. Given the backlogged courts, cases may drag on for years and so it is necessary to secure beneficial interim orders as they relate to the ownership of property, command over an organization, or the validity of government regulation. To achieve these ends, Grand Advocates use the extensive human capital they have developed within the court system and their nuanced knowledge of both formal and informal judicial procedure. These assets are in many ways positional goods — particularly their reputational capital before certain judges — that are difficult to share with juniors or partners. They are also assets that can be used in a wide range of cases, thus lessening the pressure to specialize amongst this select group of lawyers, who are still largely generalists.

We know of no close parallels to Grand Advocates amongst lawyers in other countries, at least outside South Asia. Unlike the venerated French or Brazilian jurists, who flourish in a system where judicial precedent is less decisive, the GAs are not based in or linked to academic institutions, nor do they produce books or concepts (Sweet: 1992: 30–35). They are not “authorities” whose intellectual products are considered authoritative like the eminent British barristers who furnish “opinion of counsel” memoranda (Niles: 1963: 86). Like the increasingly exclusive US Supreme Court bar whose lawyers’ name recognition increases the chance their clients’ cases are granted *certiorari*, Grand Advocates in India are known for securing hearings for their clients (Sundquist: 2010). However, the US Supreme Court bar handles far fewer cases than the Grand Advocates and does not wield the same dominating influence in their relationship with judges.

The Grand Advocate’s relative uniqueness when compared to their potential

peers elsewhere is worth noting as one of the central debates in comparative law is the degree to which legal systems around the world are converging. For example, scholars have examined whether and to what extent constitutions are converging (Tushnet: 2009; Posner & Dixon: 2010), or whether convergence is occurring between civil law and common law traditions (Merryman: 1987; Mattei & Pes: 2009). Meanwhile, few systematic comparative studies of the legal profession have been undertaken (Dias *et al.*: 1981; Abel & Lewis: 1988; Burrage: 2006; Dezalay and Garth: 2010; Halliday and Karpik: 2011) and much less attention has been paid to the question of whether the structure of the legal profession is converging. If globalization is creating increasingly similar laws, regulations, and adjudicatory proceedings one might expect the legal profession to also become more alike across countries as lawyers adapt to increasingly analogous contexts.

Answering this larger question about whether the structure of the legal profession is converging across countries is beyond the scope of this chapter. Instead, we provide a counter-example to the convergence thesis and, by detailing how Grand Advocates shape and are shaped by distinct features of the legal system in which they operate, show how unique forms of legal practice may be perpetuated even in the face of potentially homogenizing forces.

We begin our study, which is based on interviews with more than fifty legal professionals in Delhi, Mumbai, and Madras, by analyzing the structure of the legal system and the Indian bar in which Grand Advocates flourish.¹ We then turn to examine the type of work Grand Advocates do, the arc of their careers, and the impact they have on the legal system. Although the structure of this section of the bar has witnessed notable continuity, we conclude by finding that a new set of demands from clients, judges, and other lawyers may in the future fundamentally alter the space Grand Advocates currently occupy. This will likely not erase the distinctiveness of the Grand Advocates, but will certainly shape their evolution.

Background

Pre-British India had learned specialists in law, but nothing that corresponded to the legal professions of the modern world, which are made up of qualified practitioners who earn a living by representing clients before courts and tribunals and designing transactions that are affected by legal rules (Rocher 1968–69; Calkins 1968–69).

¹Interviewees are kept anonymous in this article. Many of the interviewees would themselves be considered Grand Advocates. We also interviewed younger litigators, advocates-on-record, law firm partners, general counsel, and other legal professionals with knowledge of these advocates.

Today's Indian legal profession is a product of the complex of British-style legal institutions imposed on India in the 18th and 19th centuries (Setalvad 1960), but lawyers in India developed along different lines than their counterparts in Britain or elsewhere in the common law world.²

The professional pattern as it crystallized in the late 19th century was a composite, drawing upon two main streams: (1) the royal courts in the Presidency towns (Bombay, Madras, and Calcutta), which were ruled by the British crown and English law administered by British judges and there was a dual profession, with barristers briefed by solicitors. (2) Until 1857 most of India (i.e., the *mofussil* or interior) was ruled by the East India Company, which operated courts staffed by civil servants and which licensed indigenous *vakils* (a Persian word that earlier referred generally to an agent or emissary) to represent clients in those courts. The two systems of courts were merged when the British government displaced the East India Company after the 1857 rebellion (Derrett: 1963).

Recruitment to the profession was through multiple sources: British barristers arrived from the UK to enjoy the higher fees that could be earned in India; elite Indians went to the Inns of Court in London to secure qualification; others acquired on-the-job training at the Indian courts; and (after the establishment of Universities in India starting in 1857) these were joined by those who had attended law courses in India (Galanter: 1968–69; Gandhi: 1988).

There was not a single hierarchy of courts in British India. Instead, there was a hierarchy within each province, culminating in a High Court (or in a few cases, a Court of the Judicial Commissioner). Appeal from these courts lay to the Privy Council in London and was expensive and rare. In 1935, under the Government of India Act, a federal court was established with a narrow jurisdiction over all of British India (Gadbois 1963: 19). After Independence in 1947, the Constitution (1950) brought unification into a single hierarchical system of courts, headed by a Supreme Court with an expansive jurisdiction and wide powers of judicial review.

With the passage of the Advocates Act (1961) all the old grades of practitioners (*vakils*, barristers, pleaders of several grades, and *mukhtars*) were abolished and consolidated into a single body of advocates who enjoy the right to practice in courts throughout India. The only *formal* distinctions that remain within this body of advocates are:

- (1) Lawyers can be designated as *senior advocates* by the Supreme Court or any

²The reference to India here is inclusive of all of British India. To a considerable extent our observations about Indian lawyers apply to Pakistan and Bangladesh, whose legal institutions also derive from those of colonial India.

of the 21 High Courts. This is an elite stratum along the lines of the British Queen's Counsel (QCs). But the Indian distinction is far more selective: QCs make up almost 10% of British barristers, while *senior advocates* are less than 1% of Indian lawyers (The Bar Council: 2013). *Senior advocates* enjoy priority of audience; they cannot appear without a separate "briefing" advocate (or, in the Supreme Court, an *Advocate on Record*). Seniors are foreclosed from doing pleadings, drafting, and conveyances (Bar Council of India Rules 2009, part 6, ch. 1). We estimate that there are about a thousand *senior advocates*, including some four hundred designated by the Supreme Court (Supreme Court of India). A *senior advocate* designated by one court is recognized as a senior in other courts as well. *Senior advocates* may be attached to firms, not as partners or employees, but on retainers or fee arrangements. Few of the most prominent are so attached.³

- (2) The requirement that an advocate on the *Original Side* of the Bombay and Calcutta High Courts be briefed by a solicitor was abolished in 1976, but it is still possible to qualify as a solicitor. This requires an extended apprenticeship as an articled clerk and passing an examination. Of those who seek this qualification only a small portion (5 or 10%) pass the examination. For example, in 2010 in Bombay only 11 of the 171 candidates (and none of the 30 first-time takers) passed (Ganz: 2010). Some elite advocates in Bombay still insist on being briefed by a solicitor (Int32), but this is a mandate of custom rather than law.
- (3) The Supreme Court early on enacted rules requiring that all matters at the Supreme Court be filed by an Advocate on Record (AOR). AORs can argue matters, but frequently they serve in a solicitor-like role, briefing advocates. In all cases they perform the various formalities of registration and scheduling of the case. One becomes an AOR by passing an examination administered by the Supreme Court.⁴ In 2011 there were some 1872 AORs. Estimates of the number actively engaged in practice range from 400–500 to 1000 (Shrivastava: 2012).

³There is no specific prohibition of a partnership between a firm and a senior counsel, except many senior counsel argue that if a firm they were part of met with a client it would be perceived as them meeting with a client thus violating provisions under the Advocates Act barring seniors from meeting directly with clients.

⁴An AOR must practice as an advocate for four years, train with a senior AOR for one year, then appear for an examination conducted by the Supreme Court. An AOR must maintain a registered office within 16 kilometers of the Supreme Court building. Supreme Court of India Rules, Order IV (2010).

The number of persons admitted to practice law in India has increased from about 70,000 at time of Independence in 1947 to some 1.2 million today. No one knows how many of these are actually engaged in the practice of law. Our guess is that at least one-third and possibly one-half are *not* practicing law.

Table 1 - The Lawyer Population

Year	Number of Practitioners Enrolled with the State Bar Councils
1952	72,425
1985	290,676
1999	626,603
2011	1,273,289

Source: Report of the All-India Bar Committee (1953), Institute of Developing Economies: 2001: 72; Ganz (2013)

Less than 1% of these advocates are admitted to practice at the Supreme Court. As of 2013 the Supreme Court Bar Association lists 6806 active resident members, 908 active non-resident members, and 2701 temporary members.⁵ The fraction of these with a substantial practice at the Supreme Court is not known.

The “Basic Structure” of the Indian Legal Profession

Most of the old categories and grades of practitioners have been abolished, but new forms of diversity amongst lawyers have emerged. Lawyers may be found in firms, as in-house counsel (Wilkins: 2012), and in legal process outsourcing (Weiss: 2008). All of these have proliferated in the last twenty years, but the great bulk of India’s lawyers remain attached to the dominant model of professional life — the free-standing advocate who practices mainly, if not exclusively, at a single court. This model, formed in colonial times, was firmly institutionalized by the early 20th century. In spite of the vast political and social change India has undergone, if we were to go around India in 2013 and observe lawyers, we would find a set of distinctive and characteristic features of professional life that are surprisingly similar to what we would have found in 1913.

⁵Supreme Court Bar Association Members Directory, *available at* <http://scbaindia.org/Web/asp/directory.aspx>.

We might think of these features as the ‘basic structure’ of the Indian legal profession. A schematic portrait of the modal organization of legal services in India, then or now, would include:

- Individualism: lawyers practice by themselves, usually assisted by clerks, and sometimes by juniors in a casual and temporary apprenticeship arrangement. There are few firms or other enduring units for coordination and sharing among lawyers. Firms are proliferating but still involve only a tiny fraction of practicing lawyers — perhaps 2 or 3% — and the larger firms are rarely focused on litigation.
- Lawyers are oriented to courts (and other court-like forums) to the virtual exclusion of other legal settings. The orientation to courts is displayed spatially: lawyers spend much of their working day at a particular court. They typically see clients in home offices or in chambers near or attached to the court, or simply at the *verandah* or a corridor of the court. The identification of the lawyer with a particular court goes back to the earliest days of British rule (Sahay: 1931: 24, 26, 33).
- The performance of the lawyer is overwhelmingly oral rather than written. With occasional exceptions, advocates focus on courtroom advocacy rather than advising, negotiating or planning. That is, they are *de facto* barristers who operate in a setting in which the ‘solicitor’ functions of advising are far less developed. Judges frequently cite oral argument in their judgments and advocates feel little constraint in making arguments that were only partially developed in the written submissions, or that were not mentioned at all. The dominance of the barrister model is displayed in, and reinforced by, the structure of remuneration. Lawyers are typically paid by the “appearance” — that is, for court work in a particular case on a given day. (Moog: 1992: 26)
- Lawyers are relatively unspecialized. Although some advocates have a special expertise in tax or criminal matters, few lawyers limit themselves to one area of law.

One significant consequence of the thick and continuous interaction of lawyers at the court premises is that the lawyers at each court form a guild with a capacity for collective action. This was displayed dramatically in the resolute and persistent actions of the Pakistani lawyers — who occupy a social world similar to that of their Indian counterparts — who struck and demonstrated when judges of the Pakistan Supreme Court were removed by President Musharraf in November 2007 (Ghias: 2010). The Indian examples of lawyers’ strikes and boycotts are generally

less inspiring. The first such assertion of lawyer muscle at the Supreme Court took place in 1982, when the Supreme Court Bar Association staged a strike in response to a judicial memorandum that suggested eliminating oral argument in certain categories of cases (Dhavan: 1986: 55–56). The strike action was called off when the judges reassured the lawyers that the suggested changes, which would have undercut a major source of income for lawyers, were merely proposals (*Hindustan Times*: 1982). In 2012, the district court in Delhi was brought to a halt by lawyers protesting a rule that placed a monetary limit on cases that could be heard by the district courts (IBNLive: 2012). In the same year lawyers in Karnataka boycotted courts across the state after a police attack on lawyers at the civil courts complex in Bangalore, where lawyers had attacked journalists covering a politically important trial, claiming that the journalists had portrayed them poorly in connection with earlier encounters (Daily News and Analysis: 2012).

While Grand Advocates frequently hold bar offices, they are remote from involvement in such direct action. They typically disapprove of exercises of lawyers' street power although as we will see the bar's militant opposition to reform helps to preserve many features of the setting in which the Grand Advocates flourish.

Steep Hierarchy

The pre-eminence of the Grand Advocates is a contemporary expression of a long-standing and pervasive pattern of steep hierarchy at the bar. At every level, the provision of legal services was (and is) dominated by a small number of lawyers with outsized reputations, who have the lion's share of clients, income, prestige, standing and influence.

The pre-eminence of the Grand Advocates is a contemporary expression of a long-standing and pervasive pattern of steep hierarchy at the bar. At every level, the provision of legal services was (and is) dominated by a small number of lawyers with outsized reputations, who have the lion's share of clients, income, prestige, standing and influence.

This pattern has been noted by a number of observers of the Indian legal scene over the last half-century. For example, in his late 1960s study of a district bar of about a hundred lawyers in Haryana, Charles Morrison (1968–69: 261) identified “five or six” who are “recognized as ‘leading lawyers.’” In his (late 1970s) study of a district court in the Punjab, J.S. Gandhi (1982: 79) reports that the 12 “specialist” lawyers (in a bar of over two hundred) “handled among themselves at least fifty % or more of the total practice.” Robert Moog (1997: 73–74) in his mid-1980s account of the

Varanasi bar describes how, of the over 3000 advocates in Varanasi, “[a]pproximately two dozen *senior advocates* ... dominate the civil practice. ... It is not unusual for members of this elite group to have as many as twenty-five matters scheduled in court on one day.” In his 1991 study of lawyers in a Haryana District, Hans Nagpaul (1994: 59) found that 10% of the 300 lawyers enjoyed some 75% of the legal business.

Upon the establishment of the Supreme Court of India in Delhi in 1950, lawyers were drawn to the new court from cities where there were existing High Courts. At first these lawyers commuted to Delhi to argue their cases. Later many shifted to the capital — as prominent lawyers at the High Courts have continued to do. Before long, the Supreme Court had its own steep hierarchy of practitioners headed by an entourage of ‘leading lawyers’, much along the lines familiar in High Courts and district courts throughout the country.

We estimate that the number of pre-eminent seniors — those we are calling Grand Advocates — at the Supreme Court today is something on the order of 40 to 50. If we add those of comparable status at the High Courts, there are at most a hundred that make up what one observer refers to as the “giants and legends of the litigation system.”⁶ This shape — very steep hierarchy, with a concentration of prestige, authority, and prosperity in a narrow group of senior lawyers — has been a constant feature of law practice in India in colonial times and after Independence, in the highest courts and in local courts, when the bar was flourishing and when it went through difficult times.

Back in 1983 T.K. Oommen (1983), a leading sociologist, provided a shrewd assessment of the profound consequences of the steep and pervasive professional hierarchy in the Indian bar. The concentration of business in a few hands, he observed, underlies a culture of postponement in the judiciary. Judges give postponements to eminent lawyers, who are constantly juggling more courtroom obligations than they can possibly attend, meaning that cases are dealt with in disconnected bits over a long period of time. As one young lawyer observed — this was almost thirty years later — “There is a cartelization of litigation by the senior counsel. They take on more cases than they can deal with. This leads to delays in the courts because the seniors don’t make it for appearances. ... As a result, the quality of litigation suffers overall and it gets more expensive.”⁷

Oommen (1983:24) concluded his study by remarking that “most importantly, the leading lawyers rather than the judges, emerge as norm-setters and value-givers in the Court system. Interpreted meanings provided by the lawyers in support of their

⁶Email from Nikhil Chandra, 12 Apr. 2012.

⁷Interview 18.

clients rather than interpretations by judges assume importance in the application of law.” Oommen made these observations about the dominant position of the top lawyers compared to the judges in the 1980s, before liberalization. But this sense of the dominance of the top lawyers is if anything more pronounced today. One leading lawyer observed: “The judges are almost irrelevant. We all know some man has to do it. It’s good if they are good, but [it is] not expected. The counsel have learned to treat them with kid gloves. To guide them. I think the judges have a deep rooted inferiority complex.”⁸ As this suggests, at least some Grand Advocates perceive themselves as positioned further up in the hierarchy than most judges. This sense of superiority may be reinforced by the social backgrounds of many of the Grand Advocates and judges. While Grand Advocates are almost always from a cosmopolitan background and well versed in English, judges come from a variety of settings, with many raised in non-English speaking households in more provincial settings.

We might think of the dominance of the lawyers as an instance of regulatory capture (Bernstein: 1977), in which the agenda and decisions of an agency (the courts in this instance), established to regulate an industry (here, litigation) in the light of external standards, instead reflects the perspective of the industry it is supposed to regulate (especially in relation to courtroom management). This is especially likely where, as here, the agency decision makers are recruited from among the regulated.

But the capture metaphor may lead us to overlook a more fundamental point. Thomas Reed Powell (1880–1955), a Harvard law professor, is credited with the observation that “If you think you can think about a thing that is inextricably attached to something else without thinking of the thing which it is attached to, then you have a legal mind.” (Simpleman: 1986: 545) In this spirit we can appreciate the artificiality of thinking about the institution of the Grand Advocates without thinking of the judicial setting in which they flourish. Indeed, we might imagine the Grand Advocates and India’s higher courts as the inextricably attached parts of the same creature. In a setting where oral presentation overshadows written submission and where the judges have insufficient time and resources for independent research, the GAs enjoy the esteem of the judges, who give them more “face time” to argue and who rely on their accounts of the law and the facts. The GAs play an oversized role and their presence thus helps to maintain the acephelous system in which similar legal questions are decided in slightly different ways by multiple small benches of judges of the Supreme Court and High Courts.

As far back as 1977, Rajeev Dhavan (1977: 415) observed the phenomenon of “different judges deciding the same point of law as part of differently constituted

⁸Interview 23.

Benches [of the Supreme Court] reach[ing] different results.” Since then, departure from uniformity has been aggravated by the multiplication of judges and benches and the reduction in the number of larger benches (Robinson: 2013a: 173). When the Supreme Court was established in 1950 there were just eight judges. In the 1950’s they sat on five-judge or larger benches for 13% of published decisions, and otherwise regularly sat on three judge benches. By the first decade of the 2000’s the designated strength of the Court had grown to 26 justices, increasing to 31 in 2008. Some 40,000 admission matters are now heard on admission days (nowadays Monday and Friday) by over a dozen division benches that typically consist of just two judges each. Similarly, the 5,500 or so regular hearing cases (heard on Tuesday, Wednesday, or Thursday) are decided by these smaller division benches. (Robinson: 2013b; Robinson: 2011: 28).

The presence of so many benches, and the resulting pervasive (though mild) indeterminacy of precedent, increases the chances that representation by a GA may make a difference in outcome. At least it is perceived to possibly make a difference by significant numbers of clients with deep pockets engaged in controversies where the stakes make irrelevant the size of legal fees. The standing of GAs with the judges is a positional good in limited supply (Hirsch: 1976) — there can only be so many top lawyers familiar to the judges and so lawyers with reputations of being top lawyers have enhanced value to many clients. We might think of litigation in India as a kind of fabulous beast guided by modest and quickly-replaced judicial forelegs and driven by powerful Grand Advocate hind legs. The outcomes are, as Dhavan observed, “technically unpredictable” (Dhavan: 1977: 461) and invite investment in high end advocacy to further destabilize the results.

The Seniority Factor

Seniority is a major theme that surfaces at many points in our scan of the profession. Seniority works differently for judges than for lawyers. On the bench, adherence to seniority in promotion (senior judges of the High Courts are generally elevated to the Supreme Court) is combined with a rigid and early retirement age, 65 on the Supreme Court, 62 on the High Courts, and 60 in the lower courts. Seniority makes retirement and promotion predictable and means that most judges will not serve on the Supreme Court for more than five years (Chandrachud: 2012).⁹

⁹Although it is a matter of custom rather than law, the power of the seniority norm was enhanced by the “supercession” of three more senior Supreme Court Judges in 1973. A succinct account is found in Lee 2010. During the Emergency (1975–77), Indira Gandhi superseded Justice HR Khanna who was

Some distinguished advocates decline to ascend to the bench, many because of the money, but others because compulsory early retirement diminishes the attraction. One GA told us that he turned down a judicial appointment because he could predict that he would eventually be Chief Justice of India for but one year (Int32). For those on the bench seniority is a wasting asset that affords standing, influence and a privileged lifestyle but then suddenly disappears. The forcibly-retired judge is then dependent on political figures who can bestow appointments to commissions, tribunals, etc. or on private parties — including at times Grand Advocates — who can then engage the former judge for lucrative arbitration assignments. It is difficult for retired judges to serve, even as volunteers, with their former courts, for it is not clear how they are to be placed on the all-important seniority ladder.

For the GAs, on the other hand, seniority brings with it not only enhanced standing, but an enlarged fund of human capital in the form of contacts, experience and reputation. Often Supreme Court judges are not only younger than the *senior advocates* who argue before them, but the judges may have looked up to these advocates when they themselves were young lawyers. The judge almost undoubtedly has had his post for less time than the GA has been practicing in the Court meaning that the GA may feel more at home in the institution than the judge.

By tradition, *senior advocates* enjoy a right of pre-audience according to seniority, defined by the date they became senior — that is, they are entitled to be heard before those junior to them. If two advocates are briefed on a matter and they must meet for a conference tradition dictates the junior lawyer should go to the senior lawyer's office. Punctiliousness about seniority may limit collaboration. In a famous instance, in Mrs. Gandhi's 1975 election case, "she wanted [famed advocate Nani] Palkhiwala to come to Allahabad to represent her" but Satish Chand Khare, her senior counsel objected. "He said that Palkhiwala was junior to him and he would withdraw from the case if Palkhiwala was brought in. Since Khare had been involved from the very beginning and was familiar with all the facts, Mrs. Gandhi did not want to run the risk of his withdrawing and dropped the idea of bringing Palkhiwala to Allahabad." (Bhushan: 2008: 131) After she lost at the High Court in Allahabad, Palkhiwala did represent her on appeal to the Supreme Court.

next in line to become Chief Justice after he dissented in *ADM Jabalpur v. Shukla* A.I.R.1976 S.C. 1207 which held that because of the Emergency citizens did not have a right to petition the courts for their *habeas corpus* rights. When he was not made Chief Justice, Khanna resigned in protest. With the end of the Emergency, Indira Gandhi and many of her policies, including her political manipulation of the judiciary fell into disrepute. Since then the government had adhered faithfully to the seniority norm.

Grand Advocates' Clients

Jawaharlal Nehru's father, Motilal Nehru, became one of the wealthiest men in Allahabad litigating the disputes of the *zamindars* (wealthy aristocratic landowners).¹⁰ After independence, the *zamindars* disappeared with land reform, but other clients, like industrialists and banks, multiplied. Compensation remained high for top advocates, but given the sluggish pace of national growth and the government's large hand in the economy, fee increases remained tempered. In fact, law was seen as one of the least attractive career choices for promising young students, who instead flocked to more desirable professions like medicine, engineering, or the civil service.¹¹ However, this changed as liberalization opened up abundant new revenue streams for lawyers — multi-national corporations began to eye India as a prime global site for investment, India minted thousands of new millionaires and billionaires, and law firms rose to prominence to cater to the businesses that were helping drive the country to the 7 to 9% growth rates it witnessed in the first decade of the 2000s.

As a result, today's top counsels' fees are exceptionally high. As of 2012, leading advocates not infrequently charged 500,000–600,000 Rupees per appearance (\$10,000–12,000) at the Supreme Court. In the Supreme Court's hallways, Grand Advocates can be seen moving briskly from court room to court room with a flock of juniors, clerks, and clients in tow as they proceed from argument to argument. This is a business plan in action. On an admission day at the Supreme Court, sometimes referred to amongst top lawyers as "harvest days", an advocate is often able to appear in as many as five to eight arguments. Many of these arguments may last just a few minutes, allowing the advocate to reap substantial monetary rewards in the course of just a few hours. On regular hearing days, advocates usually have far fewer matters, which they argue at greater length and more substantively, although counter-intuitively they charge about the same for these matters as for the shorter admission hearings. To prepare for admission and regular hearing arguments lawyers hold conferences with their clients for which they charge an hourly fee. Otherwise, all preparation costs are incorporated into the appearance fee. It

¹⁰Advocates in India have long been paid at high rates. Indeed, part of the appeal for British barristers to come from England to India was the higher rate of compensation. Schmitthener 1968–69: 346.

¹¹As Schmitthener noted in the late 1960s "The legal profession no longer offers the most honored and profitable work that can be attained in India. It no longer draws the best students, and it no longer dominates the social and political life of the country. The monopoly it had on the leadership of the country for over a century is now gone. In a way the rest of society has caught up with the profession." Schmitthener 1968–69: 47.

should be emphasized that the earnings of these advocates do not derive from their ownership interest in a business (i.e., a law firm) with salaried workers, but are payment for services rendered by them personally. Unlike the partners in law firms they do not collect payments for leasing their reputational capital to subordinates who can then command enhanced fees (Galanter & Palay: 1991). Instead, they pay their juniors, clerks, and other staff out of their own pockets for the marginal contribution of the latter to the bundle of services delivered to clients by the *senior advocate*.

Top advocates in India enjoy incomes that rival the most highly remunerated lawyers anywhere in the world.¹² Abhishek Manu Singhvi, who along with being a top litigator is also a member of the Rajya Sabha, reported his annual income at 50 crore (about \$10 million) in 2010–2011. Ram Jethmalani, another leading lawyer who is a member of the Rajya Sabha, reported his at 8.4 crore (\$1.7 million) (Dhawan 2011). Shanti Bhushan, a leading advocate who was on a public committee to design a new anti-corruption agency, disclosed an annual income of 18 crore (\$3.6 million) (Hindu 2011). Both Jethmalani and Bhushan are well over 80 and no longer litigate as much as they once did. One advocate estimated that top Supreme Court lawyers are generally earning between 10 and 50 crore a year (i.e. \$2–10 million annually) (Int25). Leading lawyers that appear before the Bombay and Delhi High Courts have comparable fees, while those elsewhere in the country usually charge considerably less.

Despite their high rates, client demand for these select lawyers is robust. Most of the leading advocates we interviewed conceded that their fees were exorbitant, but justified continuously raising fees as a mechanism to keep their workload manageable. As one Supreme Court lawyer explained, “Lawyers like me charge the sky. It is a way of filtering clients.” (Int14)

Risk aversion often brings cases to senior counsel, especially those with big names. As one lawyer who worked at a distinguished law firm stated, “The head of legal at a large corporation wants to ward off blame. They first hire a large firm like Amarchand so they can say ‘Amarchand told me.’ The firm doesn’t want the responsibility so they then hire a grand advocate so they can say they had the best. Everyone just keeps passing on risk.” (Int24) On a similar note, explaining why 10% of the lawyers got 90% of the work, a top Supreme Court lawyer noted, “When the stakes are high you get the best surgeon. It’s the same in law.”¹³

Under the Advocates Act, senior counsel are not permitted to have their own

¹²See Sahgal and Bamzai 2010; Bar & Bench News Network 2010.

¹³Interview 9; In the US context, Frank and Cook have commented that top lawyers receive salaries far higher than their social value would justify because everyone wants the “best” lawyer, particularly for high stakes litigation. Frank and Cook, 16 (1995).

clients. Instead, they must be approached by a briefing counsel who is retained by the client and who actually files the case. Briefing counsel are often solo practitioners who argue smaller matters themselves, but for larger cases enlist a senior counsel. Other times briefing counsel are attached to law firms. Senior counsel are traditionally not attached to law firms, and some senior counsel interpret the law as barring them from being a part of a law firm.¹⁴ One prominent lawyer at the Indian Supreme Court estimated that about 70% of his work came through individual advocates, while about 30% came from law firms (Int10). Most large law firms in India do not have extensive litigation practices, perhaps in part because they anticipate senior counsel would take up too much of the firm's profit margins.

Clients who have had positive experiences with certain seniors commonly request their briefing counsel to hire those seniors. At the Supreme Court, clients from particular regions of the country often seek out top advocates from their region. Other times, clients request a top advocate who is from the same region as the judge hearing the case or is otherwise perceived to have a particularly good rapport with the judge. Some leading advocates seem to cultivate relationships directly with clients, although under the Advocates Act and Bar Council Rules (Part VI, Ch. 1) they cannot deal with clients directly. As one top Bombay lawyer suggested, "If a senior has a good client — say Reliance [a major Indian Corporation] — they aren't going to let them go away, so they will keep a junior as an AOR for that client." (Int21) In-house counsel frequently demand that their briefing counsel ensure certain *senior advocates* argue their cases, and more generally work with these *senior advocates* on their matter. As a leading lawyer noted, "The growth of in-house counsel has been positive. Often the associate of the law firm is clueless and you get your real briefing from the general counsel." (Int10)

Firms and briefing counsel often have a strong role in guiding clients towards their favorite seniors. As a partner in a leading solicitor firm in Bombay explained:

"There are 7 to 8 top arguing counsel in Bombay that I would trust a brief with. At the Supreme Court, to be honest, it is only 5 to 6. In the Delhi High Court it is larger. I judge a good counsel on (1) competence level (2) how much time we can get with the senior (3) their face value, particularly for [admission matters] in the Supreme Court where at most you will have 10–15 minutes in front of the judge." (Int20) One well known High Court lawyer estimated 75% of his work came from 20–25 law firms and briefing counsel, who kept returning to him for work. He described how "Each

¹⁴There is no specific prohibition of a partnership between a firm and a senior counsel, except many senior counsel argue that if a firm they were part of met with a client it would be perceived as them meeting with a client thus violating provisions under the Advocates Act barring seniors from meeting directly with clients.

senior counsel has favorite briefing firms. Particular law firms use ‘x’ or ‘y’ as senior counsel.” (Int8)

Top senior counsel are notoriously inaccessible and this is one of the largest complaints from briefing counsel and clients. As a lawyer at a solicitor’s firm in Bombay lamented, “Half my job is chasing senior counsel.” (Int19) Some firms are known to designate young lawyers to follow seniors while they argue matters in court so that the firm can keep track of where the senior is and remind him to attend their client’s hearing.

Indeed, seniors will frequently miss hearings because they are arguing another case in a different courtroom. This results in part from the unpredictability of a chronically backlogged and poorly managed judicial system. In this context, judges will often allow advocates (or their juniors) to reschedule matters, requesting a “passover” if the senior is either not available or inadequately prepared. As a top senior in Bombay explained, “It’s fair when clients complain that we aren’t there for hearings, but I think we make reasonable estimates about what matters the judges will and will not reach.” (Int21) Another argued, “When I have 5–6 matters on a day I think only one or two will go forward meaningfully. The system allows this. There is no penalty from the court or client if I miss a hearing. There isn’t good scheduling so there is the possibility to have a lot of flexibility.” (Int23) Other seniors countered that their colleagues booked too many matters, and even charged for hearings that they actually missed. A handful of leading advocates have a reputation for taking fewer cases, despite the loss in income, because they feel taking too many matters would be unfair to the interests of their clients.

Since at least the 1980’s, litigants with deep pockets have used “blocking” or “negative retainers” to disqualify the major top advocates from being engaged by opponents (Int10). Back in 1986 a distinguished academic reported that “Resourceful clients, especially big corporations and universities make it a practice to offer a retainer to expert lawyers, not so much with a view that they will act in the case but with the view that their services do not become available to the other side. ... Wholesale buying of legal services in this way is now a standard strategy for corporate clients. ...” (Baxi 1986: 459) These litigants identify the top lawyers in the court who would be ideal for their case and then “block” them, usually by paying them for a conference to discuss the case. Since the advocate has been retained by one party he can then not appear for the other side, limiting the talent the opposition has to choose from. This practice is controversial and some lawyers will back out if they feel they are being used for blocking, or will require that they be given the first chance to argue. Others view it as an acceptable form of business and will accept a negative retainer without even holding a conference or insisting that they argue part of the

matter. In a major case, it is not uncommon for a litigant to block, or attempt to block, five or six lawyers.

For large matters, litigants frequently retain more than one senior, not only to “block” the other side, but because there is no assurance that their counsel will actually be available for the hearing, given lawyers’ propensity to overbook and the unpredictability of the Court’s scheduling.¹⁵ Some sought after lawyers are even rumored to charge a double rate to guarantee their appearance. One Supreme Court lawyer recalled a joke told about Ashok Sen (a very prominent Supreme Court advocate and one-time Law Minister who practiced up until his death in 1996) that Sen required a triple fee — “one for the case, one for the promise to appear, and the third to keep the promise.” (Int27)

One of the largest sources of litigation work is the Government. Top Supreme Court lawyers will often serve as an Additional Solicitor General, Solicitor General, or Attorney General at some point in their careers, taking a sharp cut in their income to do so. A handful of top lawyers are also closely related to political parties. For example, Ram Jethmalani and Shanti Bhushan were law ministers, Abhishek Manu Singhvi is a Rajya Sabha member, Arun Jaitley is the leader of the opposition in the Rajya Sabha, Kapil Sibal is Minister of Communications and Technology, and P. Chidambaram is Finance Minister.¹⁶ Some leading advocates also engage in lobbying work, but most official lobbying is done by law firms.

Grand Advocates’ Work

Advocates at the Supreme Court have strikingly wide-ranging practices. As one quipped, “We are all generalists here.” (Int12) GAs almost all have a portfolio that includes a substantial amount of corporate work, but usually also some combination of tax, constitutional law, intellectual property, government employment law, property, and criminal law. Leading lawyers tend to be focused in the Supreme Court or one High Court, but will travel to other cities to argue in another court for their client, charging a much higher rate to do so. Work before tribunals — such as the securities appellate tribunal, the competition appellate tribunal, the national green tribunal, the income tax appellate tribunal, the central administrative tribunal, and

¹⁵Interview 12 (“Here you have to engage at least two seniors to make sure you’ll have one. ... This is because in the Supreme Court everyone keeps papers as you never know when the case will reach. It can be about to reach for three months. The system accommodates you if you have a conflict.”).

¹⁶Note that Jaitley, Sibal and Chidambaram cannot currently practice before the Court because of their political positions.

appellate tribunal for electricity — has made up a growing portion of these lawyers work as these forums have multiplied and gained prominence post-liberalization. Some top advocates we interviewed also reported that they now spend 5 to 15% of their time on arbitration. Indian Supreme Court and High Court judges often serve on tribunals or as arbitrators post-retirement so it is not surprising that litigants seek out Grand Advocates, who have established reputations before these judges, to represent them.

Most of the Grand Advocates' work at court is dominated by more procedural aspects of law. For example, one leading Supreme Court lawyer speculated that 70% of his work came from admission day (Int10). Pleading for stays and interim relief accounts for a substantial part of these advocates' work in court. During these shorter hearings, top lawyers face-value is at a premium. One lawyer explained, "Face value matters in matters like SLPs [i.e. admission hearings] at the Supreme Court where a decision is made in a minute. A man that regularly appears will matter to that judge. That lawyer will know what that judge considers worth hearing." (Int16) For the actual full hearing clients will frequently enlist another, less expensive, lawyer who will go into the details of the case. A top advocate's chief asset in many ways is the time and sustained attention he can obtain for the client before a congested and otherwise impatient court.

In Delhi and Madras lawyers typically operate out of offices in their homes or in chambers near the High Court or Supreme Court. In Bombay, lawyers tend to have their offices outside their homes. These offices, which usually have a conference room, an extensive law library, and a large, wide desk at which the senior sits, bustle with juniors, clerks, briefing counsel, and clients. Clients (and their briefing counsel) typically come to the lawyer's office because as one top lawyer explained, one "shouldn't go to a client's office"¹⁷ as that indicated a degree of eagerness to please the client that denigrated the profession.

A top advocate might have anywhere from 3 to 20 juniors. A junior may work on one type of matter more than others, but explicit specialization is rare although not unheard of. In Bombay, juniors are traditionally not paid, and instead use their senior's chambers to become known amongst briefing counsel by giving noteworthy comments during conferences with clients. They use the infrastructure of their

¹⁷Interview 9. Compare the observation of Theron Strong (1914: 378) who traced the transformation of the legal profession in early 20th century New York. Relations with clients, he reports, had "undergone a complete and marvelous change. . . . The lawyer no longer receives the obsequious client hat in hand, but is subject to the beck and nod of the great financial magnate, who, whenever he desires to see his lawyer 'sends for him.' It would never do for the lawyer who values his practice to insist that his client should call upon him, instead of he calling upon the client."

senior's chamber for their own work in their first years. In Delhi and Madras juniors generally do receive a salary, although they also take on their own work. Some seniors pay their juniors just a token salary while others pay the equivalent of salaries of junior associates at law firms. Historically in Madras pay for juniors has been higher on average even though seniors themselves are generally paid somewhat less there.

Briefing counsel drafts the initial brief, or at least set out the facts of the case. The senior then examines the draft, revising it with the help of juniors and the briefing counsel. In general the brief is given limited attention by the senior since the argument in court often deviates from it: instead he generally focuses on preparing his own notes for oral argument.

As already noted multiple senior lawyers will often be hired by a client to argue a case together. They may coordinate strategy in advance on the telephone. However, this coordination is frequently minimal and sometimes non-existent. As one Supreme Court lawyer explained, "I find there is a bizarre situation where sometimes you don't even know which lawyers are on your side. ... The solicitor often won't tell the senior who is on their side. Maybe it's because they feel the lawyer won't study as much if they know another big gun is coming." (Int12)

Many seniors and other lawyers we interviewed commented on the lack of professionalism in litigation, which they felt meant that the quality of the work often suffered. As one rising lawyer surmised, "The expectations for work here are different [than in the West]. There doesn't need to be a high level of refinement. When you reach 85% you are good to go. The judges aren't great lawyers. The opposition lawyer will not be well prepared. It's not worth putting in the extra 15%, which takes 50% of the time. It's not that the lawyers couldn't perform, but there is no incentive." (Int23)

Entry and Ascent

Young lawyers often complain about how difficult it is for them to break into the elite world of litigation. Some of these barriers to entry are obvious. For example, the Grand Advocates operate in an English speaking world, where fluency is a necessity and British diction lauded. Only a minority of lawyers in India grew up in English-speaking households. Others struggled to gain the necessary command over language to become a Grand Advocate. However, language is not the only filter restricting entry into this high-end world.

Family connections, or being part of certain social stratum, have clear benefits for a young litigator. As one leading Bombay advocate recounted, "My father was

a lawyer so (A) you get familiar with terms; and (B) socially you meet successful lawyers and judges. It demystifies everything. Many of the big names were my dad's close friends. The *original side* of the Bombay High Court is like one big family. Everyone knows everyone professionally and socially. Being part of that makes it easier." (Int17) With a family member in the profession, clients and briefing advocates become aware of you more quickly and one can use the office space and library of one's family member. All of this helps in the early years of litigation when paying briefs are rare and income negligible. Indeed, being able to make it through the early bare bones years as a litigator is perhaps the most formidable screening mechanism for the profession, favoring the survival of those who come with wealth and connections.

Being part of the same social milieu also helps in arranging to junior with a leading senior. Most of today's prominent seniors had themselves juniored for a prominent senior, and older seniors we interviewed spoke proudly of their "alumni" who had gone on to become successful lawyers themselves. There is a feeling that if you don't have an actual father in the profession you at least need a "godfather" (i.e. a prominent senior that you junior with) who can help guide you in the early years and raise your profile, bringing you critical early cases. However, most seniors said they accepted juniors on the request of friends, retired justices, or colleagues — there was no formal selection process. Thus it is beneficial, if not essential, to be located in this social stratum in order to elicit the needed referral to a senior.

The powerful role of social networks in acquiring clients and setting up a practice helps perpetuate the disproportionate presence of certain ethnic and religious groups in the profession. For example, in Madras elite Brahmins dominate the upper ranks of the bar because of their tight networks and long-standing proficiency in English. In Bombay, the Parsis, Gujratis, and Bohra Muslims were early first movers in the profession and continue to dominate its upper reaches.¹⁸ In the Delhi High Court, post-partition refugees, particularly Sikhs from the Lahore High Court had an advantage, and their descendants continue to be disproportionately represented in the top ranks of the bar. The Supreme Court bar tends to be an amalgam of these privileged groups from around the country. Despite repeated inquiries we could not identify any Scheduled Caste, Scheduled Tribe, or Other Backward Class advocates who were regarded as part of the elite stratum of lawyers.¹⁹

¹⁸Marathi speakers dominate the bar of the less prestigious appellate side of the Bombay High Court.

¹⁹Scheduled Caste is the official term for the groups formerly referred to as 'untouchables' or Depressed Classes and more recently as Dalits; Scheduled Tribe is the official term for the many aboriginal peoples of India; the "Other Backward Classes" are a set of groups officially determined to

Women also have had a difficult time breaking into the small group of Grand Advocates and into the upper ranks of litigation more generally. Of the 81 *senior advocates* designated by the Bombay High Court in the 20 year period, 1991–2010, only three were women. No women have been designated since 2006 (Menon: 2011). Historically, women have faced discrimination from colleagues, judges, and clients, even if there are signs such barriers may be lessening. As one seasoned woman lawyer explained, “Women lawyers before me were not married. Clients didn’t use to take you seriously then. If you did get married then you moved with your husband so you couldn’t set up a practice. ... Some judges treated us well. Others were patronizing. [The discrimination] ... isn’t as bad now, but it hasn’t totally vanished. I find if a woman raises her voice they don’t like it, even though a male could do the same thing.” (Int5) In 2012, after a woman lawyer was slapped by a male colleague in the Delhi High Court, 63 women lawyers successfully petitioned the Supreme Court to set up a committee to hear complaints of sexual harassment at the Supreme Court and in the lower courts (Times of India: 2012). More women are entering litigation, but clearly discrimination and obstacles still remain.

Many leading lawyers we interviewed bemoaned the deficiency of their own formal schooling, although it frequently did provide them with future networking resources. For example, many Bombay High Court lawyers are graduates of the Government Law College, while many Delhi High Court lawyers are graduates of Delhi University. During the 1990s, as law became a more fashionable field of study as liberalization provided increasing opportunities for graduates, the National Law Schools achieved prominence in legal education. These schools were originally created to produce high quality publicly-minded litigators to strengthen the “public interest” salient of the bar (Menon: 2009). However, graduates of the National Law Schools were in marked demand by law firms and corporations flourishing in the post-liberalization economy and many entered practice as in-house counsel or with firms in India and abroad. Some though have entered litigation and are becoming an increasingly prominent network in the courts.

In earlier generations, aspiring lawyers like Motilal Nehru, Mohandas Gandhi, and Mohammed Ali Jinnah pursued a university education abroad (almost always in Britain) and enrolled at the Inns of Court to qualify as barristers. But few of today’s top advocates were educated in other countries, perhaps in part because in

be underprivileged and, like the SC and ST, entitled to be beneficiaries of government “affirmative action” programs, typically in the form of “reservations” (i.e., quotas) in educational institutions and government jobs. These groups comprise somewhere between one half and two thirds of the entire population of India. On the programs for their advancement, *see* Galanter 1984; Mendelsohn and Vicziany 1998; Thorat and Kumar 2008; Deshpande 2011, Verma 2012.

the decades after Independence, there were severe restrictions on foreign exchange and law had lost its standing as a path for ambition. In recent years, far more rising lawyers have gone abroad for education, particularly to obtain an LLM in the United States or United Kingdom, perhaps signaling that foreign credentials are returning in importance.

Several top advocates used government positions to further their careers. In their early years being a panel lawyer or standing counsel for a state government or public sector undertaking could bring assured income and visibility. Later, being Assistant Solicitor General, Solicitor General, or Attorney General often cemented an already prominent reputation and brought advocates into the elite heights of the profession. One lawyer discussed how he, “used these government jobs to work my way up.” (Int8) Many lawyers claimed they were simply asked one day to take on such a government appointments, although others suggested securing such appointment required significant networking. One well-known lawyer even cast aspersions on those taking political appointments, saying, “For a political appointment you have to hob-nob with industrialists and politicians. It’s crony legalism.” (Int9)

Another, less frequently taken, path to the upper ranks of the profession is to become known for one’s academic work, usually by writing a treatise in an area of law.²⁰ As one lawyer who took this route explained, “When my first book came out my income went up four times.” (Int9) No full-time academic is known as a leading lawyer, likely in part because academics are prohibited from practicing law in India (although practitioners can and do hold appointments to teach) (Bar Council of India Rules, Part VI, Ch II, Sect VII).

Public interest litigation (PIL), though only a tiny fraction of what the higher courts do, plays an important role in the public image of the judiciary and in the self-perception of the bar. Of the small set of lawyers who have a practice focused on public interest cases, variously defined, there is a tiny subset who are regarded as peers of the GAs. Such lawyers may be supported by a NGO or may be able to fund their operations from their personal wealth. A few other GAs combine extensive PIL with a commercial practice, while a large number of the top lawyers engage in occasional *pro bono* work that may include PIL or a prominent constitutional law or environmental matter. This *pro bono* work can help to establish an advocate’s reputation in high profile matters and later helps maintain public visibility while supporting a cause lawyers are passionate about.²¹ Relying too much on engaging

²⁰Such treatises, typically organized around the annotation of a statute, are the mainstay of the working library of most Indian lawyers. Many of the classics of the genre were produced by practitioners.

²¹As a side effect PIL cases provide work for other lawyers representing concerned clients. As

in *pro bono* type work though has potential pitfalls for an aspiring senior lawyer. Advocates are designated *Senior Advocates* by the bench. This means that lawyers that are perceived to be too far outside the mainstream may be overlooked for this designation by the judges.

For many GAs, the media offers an important means to gain and maintain visibility. Advocates can be found regularly giving interviews on the news channels, which have multiplied since liberalization. This practice is controversial amongst some GAs who prefer to keep a low and, they argue, more dignified profile. They view interviews as a form of advertisement, which is banned for lawyers in India. Yet, such publicity, either through direct interviews or simply through newspaper reports about their cases, has assured that many advocates have become familiar presences in middle class households. For example, Ram Jethmalani, a well known criminal lawyer, had his name referenced in 499 articles between 2009 and 2012 in the *Times of India*, a leading English daily that also sets story trends for many local language papers. This was a comparable amount of reporting to the most covered judges on the Court and far more coverage than prominent law firms or law firm partners receive.

Number of Articles in the *Times of India (ToI)* from 2009 to 2012 Referencing (Source: Factiva):

Table 2 - Public visibility of Judges.

Judges	References in ToI
Justice Sathisivam	524
Chief/Justice Kapadia	491
Justice Aftab Alam	408
Justice Singhvi	369
Justice Kabir	265
Justice DK Jain	213
Justice Dattu	147
Justice Lodha	147

one prominent PIL lawyer recounted, “The big commercial lawyers are happy with me because I bring them business. They have told me this several times. They must have earned crores from me.” Interview 12.

Table 3 - Public visibility of non-Judge legal professionals.

Top Advocates/Prominent Law Firms/Partners	References in ToI
Prashant Bhushan	638
GE Vahanvati	568
Ram Jethmalani	499
Harish Salve	385
Gopal Subramaniam	368
Shanti Bhushan	233
Mukul Rohtagi	147
KK Venugopal	145
Abhishek Manu Singhvi	139
Darius Khambata	133
Colin Gonsalves	88
PP Rao	83
Indira Jaising	81
Soli Sorabjee	70
Fali Nariman	43
Amarchand Mangaldas	27
J Sagar	16
AZB	10
Zia Mody	9
Trilegal	5
Cyril Shroff	2

A few GAs contribute occasional *op-ed* articles to the English-language newspapers. Lawyers and judges in the upper reaches of the system are avid readers of these papers, whose contents become generally known in these circles. Other lawyers have used professional associations as part of their rise or as a signal of their clout. Many leading advocates are or were Presidents of their respective High Court Bar Associations, the Supreme Court Bar association, or the Bar Association of India.

The Impact of GAs

The flourishing of Grand Advocates is intertwined with other features of the Indian legal system, such as congested courts, insular social networks, overwhelmed and

under-resourced judges, and the centrality of the judiciary to Indian political life. And their out-sized presence has numerous consequences for the legal system itself.

Many younger lawyers and briefing counsel view Grand Advocates with resentment. One rising advocate repeated a common refrain that many of the top lawyers are unnecessarily idealized by clients and judges, noting that, “We have given up maharajas on elephants, but we still have this.” (Int6)

Lawyers that we interviewed at law firms and in other practice settings often reported that at the outset of their careers they had considered litigation, but thought the field would be too difficult to break into given the social connections that were perceived to be a prerequisite. They viewed workplaces like firms as providing a more professional and meritocratic environment. Even as globalization has channeled more money into the legal profession, the top rungs of litigation are still seen as an old boys’ network where social connections amongst a select community, and face value with judges, are put at a premium. Indeed, these networks may be getting further entrenched instead of swept away (Dezalay and Garth: 2010).

An older lawyer lamented what he saw as the decline of the profession led by the Grand Advocates, “There is a lack of competence and discipline amongst the lawyers. They no longer tell clients they have a frivolous case. They don’t try to figure out the best remedy based on cost-benefit analysis. Now it’s just about familiarity of faces in the Supreme Court and who can speak best.” (Int7) As one senior commented, “In the old days our role models were people like Seervai and Gupte²² who didn’t have massive work or the most earnings. Now the role model is the lawyer who is earning most.” (Int27) A younger top leading lawyer described his generation as more “client and service oriented while the older seniors are more classical. We are more aggressive in my generation, less moral and not as much about the jurisprudence.” (Int14)

Because their attention is spread so thinly amongst so many cases, some view the GAs as hurting the quality of jurisprudence as they do not spend as much time as they should developing their oral and written arguments resulting in poorly briefed judges (Int33). Further, since GAs often have multiple matters scheduled on the same day, they frequently have conflicts requiring judges to reschedule matters, contributing to delays in the judicial system overall. GAs also price out many clients, meaning only those who can afford these lawyers benefit from the distinct advantage they bring in either receiving admission for their matter or more favorable orders

²²H.M. Seervai (1906–1996) was a distinguished Bombay lawyer and Constitutional scholar whose highly respected commentary on the Indian Constitution, was first published in 1967. S.V. Gupte was a distinguished Bombay lawyer who served as Attorney General of India during the 1977–79 Janata government and was the author of a leading commentary in the field of Hindu law.

(Galanter: 1974).

Despite these complaints, senior counsel frequently noted their positive impact on the judicial system, upholding the rule of law. They commended themselves as a check on overstepping or unaccountable judges. The GAs prize their independence from firms and other corporate and government interests, which they view as giving them the ability to speak out more readily if they see problems in the justice system.

Their generalist knowledge and prominent stature also enables GAs to more actively push novel lines of argument in court, pushing jurisprudence in new directions. Perhaps the best known example of this is the celebrated role *senior advocate* Nanabhoy Palkhivala had in shaping the basic structure doctrine in the landmark Supreme Court case *Kesavananda Bharati v. Union of India*, AIR 1973 SC 1461 (Andhyarujina: 2010: 19). In that case the Court held that there was a certain “basic structure” to the Indian constitution that could not be amended, including its democratic, federal and secular nature. Arguably having a preeminent lawyer advocating for a controversial position allows judges more intellectual and reputational cover to take a new jurisprudential initiative, particularly if the judges do not feel confident in their own standing.

Conclusion

If Motilal Nehru or Muhammad Ali Jinnah²³ visited the Supreme Court today they would find a Court not altogether different than the Allahabad or Bombay High Courts in which they argued in the early years of the 20th century. The multiple court rooms, buzz of lawyers and clients in the hallways, and the structure of the bar would all seem quite familiar. Independence, liberalization, and globalization may have changed some of the clients, key provisions of law, and office technology — briefs are now neatly typed on a computer — but many elements of the culture of the justice system have remained surprisingly constant. In particular, the steeply hierarchical structure of the bar has endured, suggesting that it is an expression of more deeply entrenched features of Indian social life, or at least of Indian legal institutions. The reputational capital of the Grand Advocate remains one of his primary assets in a court system marked by overwhelmed judges with little assistance, the multiplicity and blurriness of precedent, and the centrality of oral presentation. In such a context, being known and trusted by judges is a positional good of which there can only be

²³Muhammed Ali Jinnah (1876–1948) was a prominent lawyer in Bombay, a founder of the movement to partition British India and create Pakistan, and that country’s first Governor-General.

so much, placing those who have it in both a potentially lucrative and commanding position in relation to the rest of the bar.

Yet, there are signs that larger structural shifts are afoot that may affect the Grand Advocate's privileged position in this system. Law firms are increasingly looking for ways to bypass *senior advocates*. As one top firm partner indicated, "We have taken the step of encouraging our own inhouse lawyers to argue. There are two reasons. First, arguing counsel are hugely expensive and really unreliable. ... Second, it adds value for money." (Int20) As more firms develop more of their own competent lawyers to argue for them this may undercut some of the business of Grand Advocates. Eventually, senior lawyers may even be brought into law firms where they can be given more extensive infrastructure for research and case management. Currently, there is little incentive for GAs to agree to such an arrangement because they would then lose the clients who come to them through other law firms or briefing counsel and their reputational capital is not shareable in the same way as a law firm partner's.

Meanwhile, the courts themselves are becoming less the exclusive site for litigation, affecting the business model of the Grand Advocates. The development of tribunals for tax, competition, telecom, airports, and other areas means that advocacy is becoming increasingly specialized. It is more difficult for a GA to visit all these venues compared to going from courtroom to courtroom in a High Court or the Supreme Court. These tribunals are developing specialized bars and although some tribunal judges are former High Court or Supreme Court judges, many of the other judges on the tribunal are not even legally trained, meaning they are not well acquainted with the reputations of the top lawyers, thus depriving them of much of their face value. Arbitration is also increasingly attracting lawyers' time as companies try to avoid the delays and unpredictability of the courts. Harish Salve, a prominent Indian *senior advocate*, joined Blackstone Chambers in London in 2013 in a move designed to allow foreign companies to more easily approach him to represent them in international arbitration or to consult him regarding the Indian market.²⁴

The proliferation of forums and the attendant specialization in the law is inducing more lawyers to become experts in certain areas of law. Generalist advocates may increasingly be relegated to procedural matters and points of natural justice, while more substantive arguments about intellectual property or competition law gravitate to specialists. Meanwhile, some Grand Advocates may voluntarily turn away from litigation and spend less time in the courtroom, acting more as advisors or consultants to a client. As one leading advocate explained, "Today where law

²⁴Ganz 2013. Salve continues to maintain a flourishing Delhi practice where he is well-known for representing and advising Indian and multi-national corporate clients.

ends is not clear. It is becoming a mesh of consultancy and law. It's about policy." (Int10)

In addition, there are new pressures on GAs to increase the quality of their work. As one lawyer noted, "It might not be specialization that brings the leading lawyers down, but professionalization which requires more time on each case — briefing, preparing argument, and the court limiting its time so it's more content, less fluff." (Int13) Such professionalization might be prompted by the entry of foreign law firms. These firms would likely not litigate directly themselves and instead the initial effect of their arrival would likely be an initial upsurge in demand for the service of the GAs. But over the long run, as increasingly important customers of top advocates, they might demand higher standards and more emphasis on reliability, leading to a narrowing of grand advocates' famously sweeping portfolios.

A demand by clients for enhanced professional performance of GAs would be more likely if it was also demanded, or at least rewarded, by judges. For example, if judges admitted cases more selectively, punished lawyers for failing to appear at hearings, and placed more reliance on written arguments (and less on often repetitious oral advocacy) this might push GAs to more finely tune their briefs and schedules. Yet, given the pay disparities between the bar and the bench, it is unlikely in the near-term that a widespread improvement in the quality of judges will occur that might push for more professionalization amongst GAs.

The increasing number of talented students entering legal education means that there is a larger group of high quality young lawyers graduating each year. This group of rising lawyers may eventually help professionalize standards in litigation. More broadly, since so many of these top law graduates are now entering firms rather than litigation, the balance of power within the profession may eventually shift away from litigators and towards law firms and other forms of legal practice.

Studying the continuing vitality of segments of the bar like Grand Advocates allows us to better understand how the law is actually practiced, applied, and produced in India today. While some aspects of the legal profession may seem to be outwardly "converging" in a country like India — such as the increasing presence of domestic law firms that look like those found elsewhere in the world — the comparative uniqueness of Grand Advocates demonstrates how certain structural features of a nation's legal system can also generate and support a markedly divergent pattern of legal practice.

Glossary

Admission (miscellaneous) Days At the Supreme Court justices hear requests for the admission of a petition (generally on Monday and Friday). If accepted regular hearing is (generally) on Tuesday, Wednesday, and Thursday. Currently, all filings are heard by a bench of at least two judges to decide whether a matter should be admitted for regular hearing. If a case can be disposed of quickly through a short order it may be done so during the admission hearing, instead of waiting for a regular hearing.

AOR [Advocate on Record] An advocate of at least four years experience who has passed a specially designated exam that enables him or her to act and plead for a client in the Supreme Court of India. The advocate must have an office within 16 kilometers of the Supreme Court. Only AORs may file a case in the Supreme Court under the Supreme Court Rules of 1966.

Blocking — negative retainer When an advocate is paid a fee by a litigating party to not appear for the opposing party.

Briefing or Instructing Counsel An advocate who does not argue a matter in court, but instead briefs the arguing counsel on the matter, and is often charged with writing the brief.

Constitution Bench A Supreme Court bench of five judges or more which hears a substantial question of constitutional law.

Crore A unit of 100 lakhs or ten million.

Division Bench A bench of two judges, the standard format in the High Courts and now the Supreme Court.

Face Value A colloquial term used to describe the perceived respect and deference a judge treats an advocate with by way of his or her reputation.

Full Bench A bench of three judges.

Juniors Advocates who typically work for a *senior advocate* at the beginning of their career in a type of mentoring or apprenticeship relationship.

Lakh Unit of 100,000. *See also* Crore.

Leading lawyer A lawyer recognized by other members of the legal community (judges, lawyers, clients) to being one of the preeminent practicing attorneys at a given court.

Mukhtar In British India, originally unauthorized law agents, eventually recognized in 1879 as the lowest grade of lawyers, merged into the advocate category by the Advocates. Act, 1961.

Original Side The jurisdiction of some of the High Courts extends to certain original civil and criminal cases as well as to appeals and the Courts have separate rules, procedures and dockets for these “*original side*” cases.

Panel lawyer A lawyer who is on a panel of lawyers who is contracted to a public or private entity to appear, for a fee, on its behalf upon request.

Passover A judge’s indulgence of a lawyer’s non-appearance or unpreparedness when his case is called, agreeing to call it again later in the session.

PIL [Public Interest Litigation] A writ petition brought in the public interest in a High Court or Supreme Court to enforce a fundamental right of any citizen.

Pleader One of the several grades of legal practitioners before the profession was unified by the Advocates Act, 1961. The pleaders practiced in the district courts, but could not appear in the high courts without becoming an advocate.

Rajya Sabha The upper house of the Central legislature. Members of the Rajya Sabha are predominantly selected by state legislative assemblies. Service in the upper house is not considered a full time government job and those who serve there are not disqualified from practicing law.

Regular Hearing Day Generally Tuesday, Wednesday, and Thursday at the Supreme Court. When judges hear admitted matters to dispose of them through final orders. Judges typically hear more cases on admission days than regular hearing days. Miscellaneous matters (which might involve requests for interim orders, the addition or subtraction of parties, or other “miscellaneous” matters) may be heard on either admission or regular hearing day. The Supreme Court at different times in its history has heard admission and regular hearing matters on the same day or on different days than it does now.

Senior Advocate A honorific designation, conferred on an advocate by a High Court or the Supreme Court under the Advocates Act of 1961, based on the advocate's high standing in the Bar or special knowledge or experience in law.

SLP [Special Leave Petition] A petition to the Supreme Court under Article 136 of the Constitution of India by which the Supreme Court through its discretion can choose to hear any appeal.

Vakalatnama Letter of authority from client to attorney.

Vakil Originally an agent, a person invested with authority to act for another, an ambassador or representative. In British India a practitioner authorized to appear in law courts, a grade of legal practitioners lower than barristers and advocates, but higher than pleaders. Merged into the advocate category by the Advocates Act, 1961 but the term is in wide use as a synonym for lawyer.

Zamindar A landlord (usually large), who had duties to collect revenue from, and rights of governance over, his tenants. *Zamindars* were abolished by various land reform acts in the 1950s and 1960s.

Bibliography

Abel, Richard & Lewis, Philip (1988) *Lawyers in Society: The Common Law World*. Berkeley: Univ. of California Press.

Andhyarujina, T.R. (2010) "A Genius in Advocacy" in Kumar ed., *Nani Palkhivala: A Role Model*. New Delhi: Universal Law Publishing.

Baxi, Upendra (1986) "The Pathology of the Indian Legal Professions," *Indian Bar Review* 13: 455–484.

Bernstein, Marver (1977) *Regulating Business by Independent Commissions*. Ann Arbor: Greenwood Publishing Group.

Bhushan, Shanti (2008) *Courting Destiny: A Memoir*. New Delhi: Penguin.

Buckee, G.F.M (1972) *An Examination of the Development and Structure of the Legal Profession at Allahabad, 1866–1935* (Unpublished PhD thesis, London, 1972).

Burrage, Michael (2006) *Revolution and the Making of the Contemporary Legal Profession: England, France, and the United States*. Oxford: Oxford University Press.

Calkins, Philip B. (1968–69) “A Note on Lawyers in Muslim India,” *Law & Society Review* 3: 403–406.

Centenary/High Court of Judicature at Allahabad 1866–1966. 2 vols. Allahabad: Allahabad High Court Centenary Celebration Committee, 1966.

Chagla, M.C. (1974) *Roses in December: An Autobiography*. Bombay: Bharatiya Vidya Bhavan.

Chandrachud, Abhinav (2012) “Supreme Court’s Seniority Norm,” *Economic and Political Weekly*. Feb. 25.

Chandrachud, Abhinav (2012) “The Need to Have a Uniform Retirement Age for Judges,” 46 *Economic and Political Weekly* 24–27.

Civil Justice Committee 1924–25 (1925), *Report*. (Calcutta: Government of India Central Publication Branch).

Daily News & Analysis (DNA) (2012) “Bangalore clash: Karnataka lawyers to boycott courts on Monday,” Mar, 4.

Derrett, J.D.M. (1963) “Justice, Equity and Good Conscience” in J.N.D. Anderson (ed.), *Changing. Law in Developing Countries* 114–53 London: George Allen & Unwin.

Deshpande, Ashwini (2011) *The Grammar of Caste: Economic Discrimination in Contemporary India*. New Delhi: Oxford University Press.

Dezalay, Yves and Garth, Bryant (2010) *Asian Legal Revivals: Lawyers in the Shadow of Empire*. Chicago: University of Chicago Press.

Dhavan, Rajeev (1977) *The Supreme Court of India: A Socio-Legal Critique of its Juristic Techniques*. New Delhi: India Law Institute.

Dhavan, Rajeev (1986) *Litigation Explosion in India*. New Delhi: India Law Institute.

Dhawan, Himanshi (2011) "Abhishek Manu Singhvi, Vijay Mallya are Top Earners in Rajya Sabha," *Times of India*, Nov. 18, 2011.

Epp, Charles R. (1998) *The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective*. Chicago: University of Chicago Press.

Frank, Robert and Robert Cook (1996) *The Winner Take All Society*. Penguin Books.

Gadbois, George H. (1963) "Evolution of the Federal Court of India: an historical footnote." *Journal of the Indian Law Institute* 5:19–46.

Galanter, Marc (1968–69) "Introduction: The Study of the Indian Legal Profession," 3 *Law & Society Rev.* 201–218.

Galanter, Marc (1974) "Why the 'Haves' Come Out Ahead: Speculations on the Scope and Limits of Legal Change," 9 *Law & Society Rev.* 95–160.

Galanter, Marc (1984) *Competing Equalities: Law and the Backward Classes in India*. Berkeley: Univ. of California.

Galanter, Marc and Palay, Thomas M. (1991) *Tournament of Lawyers: The Transformation of the Big Law Firm*. Chicago: University of Chicago Press.

Galanter, Marc, Goonesekere, Savitri and Twining, William (1996) *Report on the Expert Panel on the National Law School of India University*.

Gandhi, JS (1982) *Lawyers and Touts: A Study in the Sociology of the Legal Profession*. New Delhi: Hindustan Publishing.

Gandhi, JS (1987) *Sociology of Legal Profession, Law and Legal System: The Indian Setting*. Delhi: Gian Publishing House.

Gandhi, JS (1988) "Past and Present: A Sociological Portrait of the Indian Legal Profession," in Abel ed., *Lawyers in Society: Vol. 1, The Common Law World*. Berkeley: Univ. of California Press.

Gandhi, M[ohandas] K[aramchand] (1962) *The Law and the Lawyers*. (compiled and

edited by S.B. Kher) Ahmedabad: Navajivan Publishing House.

Ganz, Kian (2010) "No first timers pass latest Bombay solicitors exam ...," *Legally India*, June 21.

Ganz, Kian (2013) "RTI Reveals: 1.3 million advocates," *Legally India*, Feb. 18.

Ganz, Kian (2013) "Harish Salve, Fast-Track to English Bar," *Legally India*, July 19.

Gias, Shoaib A (2010) "Miscarriage of Chief Justice: Judicial Power and the Legal Complex in Pakistan under Musharraf," 35(4) *Law & Social Inquiry* 985–1022.

Halliday, Terrence & Karpik, Lucien, eds. (2011) *Fates of Political Freedom: The Legal Complex in the British Post-Colony*. Cambridge: Cambridge University Press.

Hidayatullah, M. (1980) *My Own Boswell: Memoirs*. New Delhi: Arnold-Heinemann.

Hindustan Times (1982) "Bar Association on the warpath," May 6.

Hirsch, Fred (1976) *Social Limits to Growth*. London: Routledge.

IBNLive (2012) "Lawyers strike disrupts 2G scam case hearing," Aug. 11.

Indian Bar Committee 1923–24 [1924] Delhi: Government Central Press.

Institute of Developing Economies (2001) *Judicial System and Reforms in Asian Countries: The Case of India*. New Delhi: India Law Institute.

Jain, M.P. (1966) *Outlines of Indian Legal History* 2d ed. Bombay: N.M. Tripathi.

Jeejeebhoy, J.R.B. (1939) *Dr. Sir Chimanlal H. Setalvad: A Biography*. Bombay: Chandrakant H. Mehta.

Kidder, Robert L. (1974) "Formal Litigation and Professional Insecurity: Legal Entrepreneurship in South India," *Law & Society Review* 9:11–37.

Krishnaswami Aiyar, K.V. (1953) *Professional Conduct and Advocacy: being a series of lectures delivered to apprentices-at-law*. 3d ed. Madras: Oxford University Press.

Kumar, Nilendra (ed.) (2004) *Nani Palkhivala: A Role Model*. New Delhi: Universal Law Publishing Co.

Law Commission of India (1958), *Fourteenth Report: Reform of Judicial Administration*. 2 vols. (Government of India, Ministry of Law).

Law Commission of India (1988) *One Hundred Thirty-First Report: Role of Legal Profession in Administration of Justice*.

Mack, Elmar (1955) *Mainly Scripts and Touts*. Madras: Higgenbothams Ltd.

Madsen, Stig Toft (1984) "Ripples on the Plains: Lawyers, Clients and Legal networks in Western Uttar Pradesh," *Folk* 26: 93–120.

Mahajan, Mehr Chand (1963) *Looking Back: The Autobiography of Mehr Chand Mahajan/Former Chief Justice of India*. London: Asia Publishing House.

Majumdar, N., Dutt (1974), *Conduct of Advocates & Legal Profession: Short History*. Calcutta: Eastern Law House.

Mattei, Ugo & Pes, Luca (2009) "Civil Law and Common Law: Toward Convergence?" in Caldeira ed., *The Oxford Handbook of Law and Politics*. Oxford: Oxford University Press.

Mavalankar, G.V. (1955) *My Life at the Bar*. New Delhi: Hindustan Times.

Mendelsohn, Oliver & Vicziany, Marika (1998) *The Untouchables: Subordination, Poverty and the State in Modern India*. Cambridge: Cambridge University Press.

Menon, Madhava, ed. (1984) *The Legal Profession: A Preliminary Study of the Tamilnadu Bar*. New Delhi: Bar Council of India Trust.

Menon, Madhava (2009) *Turning Point: The Story of a Law Teacher*. New Delhi: Universal Law Publishing.

Menon, Meena (2011) "Women as senior advocates, any takers?" *The Hindu*, Sept. 25.

- Menon, Ramesh (1986) "Legal Wrangle," *India Today*, Dec. 31, 1986, p. 19.
- Merryman, J.H., (1987) "On the Convergence (and the Divergence) of the Civil Law and the Common Law," 17 *Stanford J of Int L* 357–88.
- Misra, B.B. (1961) *The Indian Middle Classes: Their Growth in Modern Times* (London: Oxford University Press).
- Mitra, Sumit "Legal Eagles," *India Today*, Mar. 31, 1997 pp. 74–82.
- McKinstry, Sam W. (1974) *The Brokerage Role of the Indian Lawyer: A Law and Society Approach* (Ph. D. Dissertation, University of Missouri).
- Moog, Robert (1992) "Delays in the Indian Courts: Why the Judges Don't Take Control," 16 *Justice System J* 19–36.
- Moog, Robert (1997) *Whose Interests are Supreme? Organizational Politics in the Civil Courts in India*. Ann Arbor: Assn for Asian Studies.
- Morrison, Charles (1968–69) "Social Organization at the District Courts: Colleague Relationships among Indian Lawyers," 3 *Law & Society Rev.* 251–267.
- Morrison, Charles (1972) Kinship in Professional Relations: A Study of North Indian District Lawyers," *Comparative Studies in Society and History* 14: 100–128.
- Morrison, Charles (1974) "Clerks and Clients: Paraprofessional Roles and Cultural Identities in Indian Litigation," *Law & Society Review* 9: 39–61.
- Nagpaul, Hans (1994) "The Legal Profession in Indian Society: A Case Study of Lawyers at a Local Level in North India," 22 *Int'l J of the Sociology of Law* 59–76.
- Narang, Prashant (2011 "Regulatory Barriers to Litigation in India," *Asian Journal of Law and Economics* 2(3): article 4.
- Nariman, Fali S. (2010) *Before Memory Fades: An Autobiography*. New Delhi: Hay House.
- Niles, Russell (1963) "Ethical Prerequisites to Certification of Special Proficiency," 49

American Bar Association Journal 83–89.

Oommen, T.K. (1983) “The Legal Profession in India: Some Sociological Perspectives” 10 *Indian Bar Rev* 1–46.

Overseas Hindustan Times (1982) “Bar Association on the warpath,” May 6, 1982.

Paul, John (1986) *Vakils of Madras, 1902–1928: The Rise of the Modern Legal Profession in South India* (Ph. D. thesis, Department of History, University of Wisconsin — Madison).

Posner, Eric & Dixon, Rosalind (2010) “The Limits of Constitutional Convergence,” 11 *U Chi J. of Int’l L.* 399–423.

Price, Pamela “Ideology and Ethnicity under British Imperial Rule: ‘Brahmins,’ Lawyers and Kin-Caste Rules in Madras Presidency” (1989) *Modern Asian Studies* 23:151–177.

Rajamani, Lavanya & Sengupta, Arghya (2010) “The Supreme Court of India: Power, Promise, and Overreach,” in Jaya ed., *The Oxford Companion to Politics in India*. New Delhi: Oxford University Press.

Robinson, Nick (2009) “Expanding Judiciaries: India and the Rise of the Good Governance Court,” 8(1) *Wash U Global Studies Law Rev.* 1–70.

Robinson, Nick *et al.* (2011) “Interpreting the Constitution: Supreme Court Constitution Benches Since Independence,” 56(9) *Ec. and Pol. Weekly* 28–31.

Robinson, Nick (2013) “Structure Matters: The Impact of Court Structure on the Indian and US Supreme Courts,” 61(1) *Am. J. of Comp. Law* 173–208.

Robinson, Nick (2013) “A Quantitative Analysis of the Indian Supreme Court’s Workload,” *J. of Emp. L. Studies* (forthcoming).

Rocher, Ludo (1968–69) “Lawyers in Classic Hindu Law,” 3 *Law & Society Rev.* 383–402.

Sahay, Nawal Kishor (1931) *A Short History of the Indian Bar*.

Sathe, S.P, Shaila Kunchur and Smita Kashikar (1984) "Legal Profession — Its Contribution to Social Change: A Survey of the Pune City Bar," *ICSSR Research Abstracts Quarterly* 13: 111–127.

Schmitthener, Samuel (1968–69) "A Sketch of the Development of the Legal Profession in India," 3 *Law & Society Rev.* 337–382.

Setelvad, Chimanlal H. (1946) *Recollections & Reflections: An Autobiography*. Bombay: Padma Publications.

Setalvad, Motilal C. (1960) *The Common Law in India*. London: Stevens and Sons.

Setalvad, Motilal C. (1971) *My Life: Law and Other Things* Bombay: N.M. Tripathi Pvt. Ltd.

Sharma, K.L. (1984) *Sociology of Law & Legal Profession: A Study of Relations between Lawyers and Clients*. Jaipur: Rawat Publications.

Shrivastava, Prachi (2012) "PXV's Mohit Abraham on the record: How to top the advocates-on-record (AOR) exam & other secrets," *Legally India*, Jan. 25.

Simpleman, Jr., A. (1986) "Sentimental Metaphors," 34 *UCLA Law Rev* 537–76.

Soni, Brahm Dev (1956) *Lawyers of Dehra Dun: A Study of the Sociology of the Legal Profession* (Survey Report submitted for M.A. (Final) Sociology Examination, Agra University).

Sundquist, Mathew Lee (2010) "Learned in Litigation: Former Solicitors General in the Supreme Court Bar," 5(1) *Charleston Law Rev* 59–97.

Supreme Court of India, *Senior Advocates of the Supreme Court* (2011) <http://www.supremecourtsofindia.nic.in/circular/senioradvocates.pdf> (accessed 4 August 2013).

Sweet, Alec Stone (1992) *The Birth of Constitutional Politics in France: The Constitutional Council in Comparative Perspective*. Oxford: Oxford University Press.

Tek Chand, [Bakshi] (1935), *The Law of Legal Practitioners in British India*. Calcutta:

Eastern Law House.

The Bar Council, Statistics, <http://www.barcouncil.org.uk/about-the-bar/facts-and-figures/statistics/> (accessed 4 August 2013).

Times of India (2011) "Himanshi Dhawan, Abhishek Manu Singhvi, Vijay Mallya are Top Earners in Rajya Sabha," Nov. 18.

Times of India (2012) "Panel to look into sexual harassment cases within SC premises created," Oct. 10.

The Hindu (2011) "Anna Hazare, others declare assets," April 16.

Tushnet, Mark (2009) "The Inevitable Globalization of Constitutional Law," 49 *Virginia J. of Int'l L.* 985–1006.

Tyabji, Husain B. (1952) *Badruddin Tyabji: a biography*. Bombay: Thacker & Co.

Vachha, P.B. (1962), *Famous Judges, Lawyers and Cases of Bombay* [Reprinted in 2011 with an introduction by Soli J. Sorabji] New Delhi: Universal.

Verma, Vidhu (2012) *Non-Discrimination and Equality in India: Contesting Boundaries of Social Justice*. London: Routledge.

Weiss, Debra Cassens (2008) "Indian Lawyers Handling Outsourced Work Do More Than Document Review," *ABA Law Journal*, May 12.

Wilkins, David. (2012) "Is the In-House Counsel Movement Going Global? A Preliminary Assessment of the Role of Internal Counsel in Emerging Economies," 2 *Wisc. L. Rev.* 251304.